

PR14-0078

ORIGINAL

February 3 2014

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

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FILED

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Prosecuting Attorney

IN THE SUPREME COURT OF THE STATE OF MONTANA

INQUIRY CONCERNING COMPLAINT OF
JUDICIAL STANDARDS COMMISSION OF
THE STATE OF MONTANA,

Complainant,

vs.

JUDGE G. TODD BAUGH,

Respondent.

No. PR14-PR14-0078

FORMAL COMPLAINT

COMES NOW Malin Stearns Johnson, Prosecuting Attorney appointed by the Judicial Standards Commission of the State of Montana, and, on behalf of the Judicial Standards Commission, does hereby make formal complaint against Judge G. Todd Baugh, a judicial officer of the State of Montana, as follows:

1. Judge Baugh is a duly elected district judge of the Montana Thirteenth Judicial District, Yellowstone County.

2. This judicial disciplinary matter arises from Judge Baugh's August 2013 sentencing of Stacey Rambold for sexual intercourse without consent.

3. In October 2008, Rambold, a 47-year-old teacher at Billings Senior High School, was charged with sexual intercourse without consent involving a 14-year-old girl who was in ninth grade and a student in Rambold's class. The girl committed suicide before Rambold's case could be tried.

4. In July 2010, the State of Montana, through the Yellowstone County Attorney's office, agreed to defer prosecution of the charges against Rambold. In exchange, Rambold admitted to one count of sexual intercourse without consent, agreed to enter sex offender treatment, and agreed that, if he violated the conditions of his sexual offender treatment, his prosecution could be reinstated. Judge Baugh approved the deferred prosecution agreement.

5. Rambold violated the terms of his sexual offender treatment program, including having unauthorized contact with minor children and engaging in a sexual relationship with an adult woman and failing to disclose that relationship. Upon learning of these violations, the Yellowstone County Attorney's office sought to reinstate Rambold's prosecution.

6. On April 15, 2013, the State and Rambold entered into a plea agreement pursuant to which Rambold agreed to plead guilty to one count of sexual intercourse without consent. The State sought a sentence of 20 years in prison with 10 years suspended. Rambold, through counsel, asked that all but 30 days of his sentence be suspended.

7. On August 26, 2013, Rambold appeared before Judge Baugh for sentencing. Before imposing his sentence, Judge Baugh spoke in court about his rationale. Judge Baugh stated that Rambold's victim was "a troubled youth, but a youth that was probably as much in control of the situation as the Defendant, one that was seemingly, though troubled, older than her

chronological age.” Judge Baugh sentenced Rambold to 15 years in the Montana State Prison, all but 31 days suspended, credit for one day served.

8. Judge Baugh later explained to members of the press that “[i]t was horrible enough as it is just given her age, but it wasn’t this forcible beat-up rape.”

9. Shortly after sentencing, Judge Baugh sought to modify his sentence in light of his apparent realization that, pursuant to Montana Code Annotated § 46-18-205, the mandatory minimum sentence for Rambold’s crime was two years in prison. The Montana Supreme Court blocked Judge Baugh’s attempt to resentence Rambold, stating that the District Court lacked authority to revise a sentence it had already issued. Rambold’s sentence is pending on appeal.

10. Judge Baugh’s sentence and rationale, particularly his remarks that the 14-year-old victim was “older than her chronological age” and “as much in control of the situation” as her 49-year-old teacher, sparked immediate public outcry.

11. Immediately after the August 2012 sentencing, the Judicial Standards Commission for the State of Montana began receiving hundreds of complaints, by e-mail, by phone, and by way of formal complaint, regarding Judge Baugh’s sentence and rationale. The Judicial Standards Commission also received eight verified Complaints submitted on the standardized Complaint form approved by the Judicial Standards Commission. (Complaint filed by Lisa L. Rowell (Aug. 30, 2013); Complaint filed by Katie Eisenstein (Aug. 30, 2013); Complaint filed by Gena Gremaux (Sept. 9, 2013); Complaint filed by Dr. Susan Elliott (Sept. 9, 2013; Complaint filed by Tina McKim (Sept. 9, 2014); Complaint filed by Dorothy Anne Gray (Sept. 18, 2013); Complaint filed by Marian Bradley of Montana and Pennsylvania Chapters of the National Organization For Women, (Sept. 23, 2013); Complaint filed by Natasha Bethards (Oct. 9, 2013)).

12. Rule 1.2 of the Code of Judicial Ethics, Promoting Confidence in the Judiciary, provides:

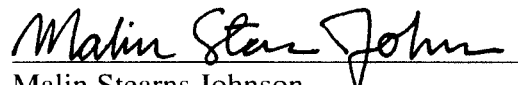
A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

13. Judge Baugh imposed an overly lenient sentence for the crime of sexual intercourse without consent and justified the unlawful sentence by blaming the child victim. Judge Baugh's assertion that the victim was "older than her chronological age" is inconsistent with Montana law prohibiting sexual intercourse without consent with minor children, which requires evaluation of child victims based on chronological age alone, rather than on subjective perceptions of physical maturity and situational control. Judge Baugh attempted to retract his sentence and rationale in a manner inconsistent with Montana law. Finally, Judge Baugh made additional inappropriate public statements attempting to justify his actions. Through his overly lenient and unlawful sentence, inappropriate rationale, and subsequent public comments, Judge Baugh has eroded public confidence in the judiciary and created an appearance of impropriety, therefore violating the Montana Code of Judicial Conduct.

14. Judge Baugh's judicial misconduct warrants disciplinary action in accordance with the Rules of the Judicial Standards Commission of the State of Montana.

DATED this 31st day of January, 2014.

MSJOHNSON LAW, PLLC

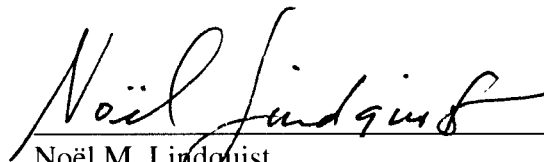

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CERTIFICATE OF SERVICE

I, Noël Lindquist, paralegal for MSJohnson Law, PLLC, hereby certify that on this 31st day of January, 2014, I mailed a true and correct copy of the foregoing document, postage prepaid, to the following:

Clerk of Court
Montana Supreme Court
215 N. Sanders, Room 323
P.O. Box 203003
Helena, MT 59620-3003

Judge G. Todd Baugh
217 N. 27th St.
P.O. Box 35030
Billings, MT 59107



Noël M. Lindquist
MSJohnson Law, PLLC